

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
SES AMERICOM, INC.)
)
Petition for Waiver of Section 25.131(j) of the)
Commission's Rules)

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Federal Communications Commission
Office of the Secretary

Expedited Action Requested

PETITION FOR WAIVER

SES Americom, Inc. ("SES Americom," doing business as "SES WORLD SKIES"),¹ hereby requests a temporary waiver of Section 25.131(j) of the Commission's rules, 47 C.F.R. § 25.131(j), to permit U.S. earth stations receiving signals from AMC-18 to continue to do so without the need to obtain individual authority for a period of up to 30 days beginning on November 20, 2010. During that period, AMC-18 will be temporarily operated in an expanded stationkeeping volume, ranging between 104.75° W.L. and 105.15° W.L. Grant of this request will serve the public interest by enabling continuity of service over AMC-18 while mitigating the potential for interference from the Galaxy 15 satellite.

I. BACKGROUND

AMC-18 is a C-band satellite operating at 104.95° W.L. pursuant to a license issued by the Gibraltar Regulatory Authority to SES Americom's wholly-owned subsidiary, SES Satellites (Gibraltar) Limited ("SES Gibraltar"). In 2006, the Commission granted SES

¹ On September 7, 2009, SES S.A. announced that the newly integrated operations of its two indirect subsidiaries, New Skies Satellites B.V. and SES Americom would be conducted under a single brand name, SES WORLD SKIES. The new brand name does not affect the underlying legal entities that hold Commission authorizations or U.S. market access rights.

Gibraltar's petition for declaratory ruling seeking addition of AMC-18 to the Commission's Permitted Space Station List, permitting U.S. earth stations to communicate with AMC-18 in the conventional C-band.² Under that authority, hundreds of U.S. earth stations rely on space segment provided by AMC-18 for a variety of services including the distribution of video programming to cable head-ends.³

These services are threatened by potential interference from the PanAmSat Licensee Corp. ("PanAmSat") Galaxy 15 satellite (call sign S2387). As the Commission is aware, the Galaxy 15 spacecraft experienced an anomaly on or about April 5, 2010. The spacecraft began drifting eastward from its assigned orbital location of 133° W.L. in an uncontrolled manner, and efforts to regain control of the spacecraft have been unsuccessful. Galaxy 15 is currently approaching AMC-18 and is expected to pass through AMC-18's station-keeping box with its payload active on or about November 24. Because Galaxy 15 operates on the same C-band frequencies as AMC-18, the potential for harmful interference into AMC-18 operations is significant as Galaxy 15 approaches. There will also be an increased risk of an in-orbit collision as Galaxy 15 passes through AMC-18's stationkeeping box.

SES Gibraltar has been evaluating options to mitigate these risks, working with its customers and Intelsat. One such method is to ensure a minimum orbital separation between AMC-18 and the active Galaxy 15 as it approaches and passes through 104.95° W.L. Specifically, AMC-18 would first move to the east as Galaxy 15 approaches from the west, and then be maneuvered to the west of 104.95° W.L. as Galaxy 15 continues on its passage east.

² See SES Satellites (Gibraltar) Limited, File No. SAT-PPL-20061006-00118, Call Sign S2713 ("AMC-18 Permitted List Filing"), grant-stamped Dec. 7, 2006 (authorizing U.S. earth stations to communicate with AMC-18 to provide Fixed Satellite Services to, from, or within the U.S.).

³ The customers of AMC-18, rather than SES Americom, are authorized to operate these receive earth stations.

These maneuvers would occur within a range of 0.2 degrees east or west of AMC-18's assigned orbital location, *i.e.* between 104.75° and 105.15° W.L. The maneuvers are expected to begin on or about November 20 and be completed within roughly a week, after which AMC-18 will recommence operating with its standard stationkeeping tolerance.

This method has previously been used successfully to mitigate interference. For example, PanAmSat managed the transition of traffic from Galaxy 15 to Galaxy 12 by operating Galaxy 12 outside of the 133° W.L. box (with Commission authority) for a period of time to maintain a minimum separation between the satellites.⁴ Similarly, SES WORLD SKIES requested and received Commission authority to use this approach to mitigate interference when Galaxy 15 passed through the assigned stationkeeping volume of AMC-11.⁵

During the planned maneuvers, AMC-18 would temporarily be operating outside its normal stationkeeping box as specified in its Permitted Space Station List entry. Under Section 25.131 of the Commission's rules, receive earth stations must generally obtain an individual authorization to communicate with a foreign-licensed satellite.⁶ There is an exemption from this requirement if the satellite is on the Permitted Space Station List, but it applies only if the operations conform to all Commission rules and the conditions pursuant to which the foreign-licensed satellite was authorized to serve the U.S.⁷ Thus, by its terms, Section 25.131(j) would require issuance of an individual authorization for each U.S. earth station that would be receiving signals from AMC-18 during the time when the satellite is outside the range of its assigned stationkeeping volume.

⁴ See File No. SAT-STA-20100408-00070, Call Sign S2422, grant-stamped Apr. 9, 2010.

⁵ See File No. SAT-STA-20100430-00086, Call Sign S2433, grant-stamped May 12, 2010.

⁶ 47 C.F.R. § 25.131(j)(1).

⁷ 47 C.F.R. § 25.131(j)(2)(ii).

SES Americom seeks a waiver to allow U.S. earth stations to continue to receive signals from AMC-18 during the maneuvers described herein.⁸ Grant of the requested waiver will serve the public interest by facilitating provision of service continuity while mitigating the risk of harmful interference and will not undermine the purpose of Section 25.131(j).

II. WAIVER OF SECTION 25.131(j) IS CONSISTENT WITH COMMISSION PRECEDENT AND WILL SERVE THE PUBLIC INTEREST

A waiver of Section 25.131(j) is clearly warranted here in the narrow factual circumstances presented. Under long-standing Commission policy:

The Commission may waive a rule for good cause shown. Waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule. Generally, the Commission may grant a waiver of its rules in a particular case if the relief requested would not undermine the policy objective of the rule in question and would otherwise serve the public interest.⁹

Good cause exists to waive Section 25.131(j) in the instant case. As described above, the AMC-18 maneuvers outside its assigned stationkeeping box are designed to minimize the potential for U.S. customers of AMC-18 to experience harmful interference during the period when Galaxy 15 approaches and passes through AMC-18's authorized location. In order to ensure service continuity, the AMC-18 payload needs to remain operational during these maneuvers and customers must be able to receive signals from the spacecraft without interruption. Furthermore, because the services described herein are receive-only, there is no risk of harmful interference to other authorized operations.

⁸ SES Americom is separately requesting individual authority for two of its earth stations, call signs E000313 and WB81, to transmit to and receive signals from AMC-18 during the proposed maneuvers.

⁹ *PanAmSat Licensee Corp.*, 17 FCC Rcd 10483, 10492 (Sat. Div. 2002) (footnotes omitted).

A strict adherence to Section 25.131(j) would place an unnecessary burden on the Commission and AMC-18 customers. More than a thousand U.S. antennas receive signals from AMC-18. Requiring the preparation and filing of individual, call sign-specific requests for special temporary authority for each of these sites would involve significant time and effort, and processing and acting on the requests would unduly tax Commission resources.

No public interest would be served by this process. AMC-18 is licensed by Gibraltar, which is an overseas territory of the United Kingdom and therefore a WTO member country. By placing AMC-18 on the Permitted Space Station List, the Commission has determined that permitting U.S. earth stations to communicate with AMC-18 is consistent with Commission market access policies, which include a presumption that service by satellites licensed to WTO member countries is in the public interest.¹⁰

In addition, the Commission has concluded that AMC-18 operations conform to Commission technical requirements. During the maneuvers described herein, operations of AMC-18 will continue to conform with the terms of the Permitted Space Station List grant with the sole exception that AMC-18 will temporarily be operating in an expanded total stationkeeping volume. Because the sites covered by the requested waiver are only receiving signals from AMC-18, there is no need to perform an individual evaluation on a site-specific basis. Instead, authorizing continued receipt of signals from AMC-18 during the planned maneuvers pursuant to a blanket waiver request is clearly the most efficient approach.

Finally, granting a waiver will not contravene the underlying purpose of Section 25.131(j). That rule was designed to ensure that the Commission has a means of

¹⁰ See *Amendment of the Commission's Policies to Allow Non-U.S. Licensed Space Stations providing Domestic and International Service in the United State*, Report and Order, 12 FCC Rcd 24094, 24112 (¶ 39) (1997).

determining whether allowing a foreign-licensed satellite to transmit to U.S. earth stations is consistent with Commission legal and technical requirements and policy objectives as specified in Section 25.137 of the rules.¹¹ The Commission has already made this determination with respect to AMC-18 by granting it Permitted Space Station List status. Furthermore, the instant waiver applies only to AMC-18 receive sites. As noted previously, SES Americom and others are separately requesting individual authority for earth stations to transmit signals to AMC-18 during the planned maneuvers. Thus, grant of the requested waiver will not limit the Commission's ability to exercise its jurisdiction and oversight with respect to the proposed operations.

The relief sought here is consistent with Commission precedent. Earlier this year, the Satellite Division granted a blanket waiver to allow GPS terminals to receive signals from the Inmarsat 4F3 spacecraft licensed by the United Kingdom.¹² In granting the waiver, the Division noted that the Commission had already received and favorably reviewed information regarding the legal, technical and policy aspects of U.S. market access by the satellite.¹³ Similar treatment is appropriate with respect to reception of signals from AMC-18, which has likewise been evaluated and authorized to provide U.S. service under the Commission's market access framework.

¹¹ See *id.* at 24179-80 (¶ 201) (Commission's intent in requiring licensing of receive earth stations communicating with foreign-licensed satellites "was to provide a vehicle by which we could examine factors specific to the non-U.S. *satellite*," including competitive issues and technical considerations and "to provide the Commission with a regulatory control point for transmissions entering the United States through foreign satellites") (emphasis in original; footnotes omitted).

¹² Inmarsat Hawaii Inc., File No. SES-MS-20100415-00483, grant-stamp, July 13, 2010.

¹³ *Id.*, Attachment to Grant at ¶ 2.

III. CONCLUSION

For the foregoing reasons, SES WORLD SKIES respectfully requests that the Commission grant blanket authority for U.S. earth stations to continue to receive signals from AMC-18 during the maneuvers described herein, which are designed to mitigate potential interference from Galaxy 15.

Respectfully submitted,

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